

**REPLY UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2616
PATENT
Application 10/732,750
Attorney Docket 2002-0389 (1014-054)**

REMARKS

Applicant respectfully thanks the Examiner for the consideration provided to this application, and respectfully requests reconsideration of this application.

Claim 9 has been cancelled without prejudice or disclaimer.

Each of claims 1, 3, 8, 19, and 20 has been amended for at least one reason unrelated to patentability, including at least one of: to explicitly present one or more elements, limitations, phrases, terms and/or words implicit in the claim as originally written when viewed in light of the specification, thereby not narrowing the scope of the claim; to detect infringement more easily; to enlarge the scope of infringement; to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.); to expedite the issuance of a claim of particular current licensing interest; to target the claim to a party currently interested in licensing certain embodiments; to enlarge the royalty base of the claim; to cover a particular product or person in the marketplace; and/or to target the claim to a particular industry.

Support for the amendments to each of claims 1, 19, and 20 can be found in the application as originally submitted at least at paragraphs 33-35 and 37. Support for the amendments to claim 8 can be found in the application as originally submitted at least at paragraph 34. It is respectfully submitted that no new matter has been added.

Claims 1-8 and 10-21 are now pending in this application. Each of claims 1, 19, and 20 is in independent form.

I. The Objections to Claim 3

Claim 3 was objected to because "on lines 2-3 it states 'performing the statistical regression if the at least one of the historical QoS metrics.'" The present Office Action noted that the word "if" should be replaced with the word "of". This rejection is respectfully traversed as moot in view of the present amendments to claim 3. Claim 3, as amended, states, *inter alia*, "performing the statistical regression". Therefore, it is respectfully submitted that any grounds for this objection has been removed, and respectfully request acknowledgment thereof.

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II. The Obviousness Rejections

Each of claims 1-8 and 10-21 was rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of U.S. Patent No. 2005/0013244 ("Parlos"), U.S. Patent No. 2002/0049687 ("Helsper"), U.S. Patent No. 6,542,499 ("Murphy"), U.S. Patent No. 6,944,148 ("Gehring"), U.S. Patent No. 2005/0152397 ("Bai"), U.S. Patent No. 6,871,233 ("Bearden"), U.S. Patent No. 2003/0219034 ("Lotter"), and/or U.S. Patent No. 6,487,578 ("Ranganathan"). Each of these rejections is respectfully traversed as moot in view of the present amendments to each of independent claims 1, 19, and 20.

Specifically, each of independent claims 1 and 19 states, *inter alia*, yet no substantial evidence has been presented that the applied portions of the relied-upon references teach, "the bandwidth manager adapted to choose a compression method for each of the plurality of subscribed services based upon the current QOS metric, the bandwidth manager adapted to change the compression method for each of the plurality of subscribed services based upon the future QOS metric".

Claim 20 states, *inter alia*, yet no substantial evidence has been presented that the applied portions of the relied-upon references teach, a "the means adapted to choose a compression method for each of the plurality of subscribed services based upon the current QOS metric, the bandwidth manager adapted to change the compression method for each of the plurality of subscribed services based upon the future QOS metric".

Thus, even if there were proper evidence of obviousness presented in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), no substantial evidence has been presented the applied portions of the references relied upon in the Office Action, **as attempted to be modified and/or combined**, expressly or inherently teach every limitation of the independent claims, and consequently the Office Action fails to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

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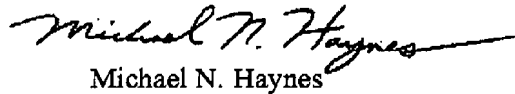
CONCLUSION

It is respectfully submitted that the application is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

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